



In order to be fully responsive to the requirement for election of a species, Applicants hereby provisionally elect a purified gp96-peptide complex for continued examination on the merits. Claims 1, 2, 6-10, 13-19, 21, and 32 each read on the elected species.

Applicants respectfully traverse the newly-imposed requirement for an election of species. Applicants respectfully submit that, pursuant to M.P.E.P. § 803, the subject matter of claims 1, 2, 6-9, 13-19, 21, and 32 can be examined together in a single application without imposing a serious burden on the Examiner. The M.P.E.P. § 803 (Seventh Edition, Rev. 1, July 2000) states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

That is Applicants respectfully submit that a search of the prior art related to the subject matter of pending claims 1, 2, 6-9, 13-19, 21, and 32 would not impose a serious burden upon the Examiner. Accordingly, Applicants respectfully request that the requirement for a species election imposed under 35 U.S.C. § 121 be withdrawn.

Applicants also note that the imposition of a species election at this late stage of prosecution of the above-captioned application is unusual, following two Office Actions on the merits. Applicants respectfully request that substantive examination of the present application, including consideration of Applicants' Amendment and Reply under 37 C.F.R. § 1.111 filed September 9, 2002, proceed without delay.

Attorneys for Applicants retain the right to petition from the requirement for a species election under 37 C.F.R. § 1.144.

Should the requirement for a species election be maintained, upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim pursuant to 37 C.F.R. § 1.141.

At page 2, paragraph 3, of the Office Action, the Examiner has interpreted Applicants' citation of MPEP § 806.03 in the Amendment filed September 9, 2002, as suggesting that "heat shock proteins are interchangeable." The Examiner also invited Applicants to clarify this alleged issue raised by the Examiner's interpretation.

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In response to the Examiner's invitation, Applicants respectfully submit that the Examiner has misapprehended Applicants' arguments in support of the fact that claim 32 is not drawn to a non-elected species. As stated in Applicants' Amendment filed September 9, 2002, claim 1 and claim 32 only differ in the breadth and scope of their definition of the present invention. That is, claim 1 is directed toward a method for prevention or treatment of graft rejection comprising administering a composition comprising a purified hsp-peptide complex, while claim 32, which depends upon claim 1, is directed toward a method for prevention or treatment of graft rejection comprising administering a composition comprising a purified population (*i.e.* a plurality) of hsp-peptide complexes. Thus claims 1 and 32 differ only in scope. Applicants' citation of MPEP § 806.03 was directed toward the provision that restriction between claims should not be imposed where the subject claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition. Applicants' arguments were not based on an assertion that all heat shock proteins are interchangeable with one another as the Examiner appears to have suggested.

CONCLUSION

Applicants believe that no fee is due for the present submission. However, if the Commissioner should determine that a fee is due, please charge the required amount to Pennie & Edmonds LLP deposit account no. 16-1150.

Applicants respectfully request that the present remarks be entered and made of record in the instant application. An early allowance of the application is earnestly requested. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Date January 2, 2003

Respectfully submitted,

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